IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

DELAY CONDONATION APPLICATION NO. NIL OF 2001
IN
GOVERNMENT APPEAL No.2076 OF 2001

The state

... Appellant/applicant

Versus

Chaman Lal Jatav & **another**

.... Respondents

Dated: June 6, 2007

Sri Prabhakar Joshi, learned brief holder for the State

HON. DHARAM VEER, J.

The present delay condonation application has been filed by the State Government for condoning the delay in filing the appeal. The notice u/s 5 of the Limitation Act were issued to the respondents on 20.12.2001, but the notices were not served upon the respondents due to the reason that the State has not filed the correct address of the opposite parties. The State was given time on 17.6.2002, 6.9.2002, 10.10.2002, 14.11.2002, 29.7.2004, 2.4.2007 and 3.5.2007 for furnishing the correct addresses of the respondents, but the same has not been filed till today. Even today, learned brief holder for the state has submitted that he has no address of the respondents.

2. I have also perused the dealy condonation application supported by affidavit. There is delay of 119 days in filing the appeal. The delay is not explained by sufficient caused. The day-to-day delay has also not been explained in the affidavit. It is not mentioned that after passing of the judgment and order dated 23.05.2001, as to when the matter was referred to DGC (Criminal) for

opinion. It is also not mentioned in the affidavit as to when the DGC (Criminal) had referred the matter to the Law Department. It is also not mentioned that when the sanction was received from the Law Department. Thus, in this way day-to-day delay has not been explained by sufficient cause.

3. Even the leave to appeal application has not been filed by the appellant which is a obligatory requirement as provided under sub-section (3) of Section 378 of Cr.P.C. For this reason also, the appeal is liable to be dismissed.

4. For the reasons stated above, the delay condonation application is devoid of merit and is hereby dismissed. Consequently, the appeal is also dismissed.

(Dharam Veer, J.)

Rajeev Dang